

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

ANTHONY DAVID FLORES,
aka "Anton David," and
ANNA RENE MOORE,

Defendants.

No. 2:22-CR-00593-PA

PROTECTIVE ORDER REGARDING
DISCOVERY CONTAINING PERSONAL
IDENTIFYING INFORMATION, MEDICAL
INFORMATION, AND PRIVACY ACT
INFORMATION

The Court has read and considered the parties' Stipulation for a Protective Order Regarding Discovery Containing Personal Identifying Information, Medical Information, and Privacy Act Information, filed by the government and defendant Anthony David Flores, also known as "Anton David" ("defendant"), in this matter on February 17, 2023, which this Court incorporates by reference into this order, and FOR GOOD CAUSE SHOWN the Court hereby FINDS AND ORDERS as follows:

1. The government's discovery in this case relates to defendant's alleged crimes, that is, violations of 18 U.S.C. § 1349 (Conspiracy to Commit Wire Fraud and Mail Fraud); 18 U.S.C. § 1343

(Wire Fraud); 18 U.S.C. § 1341 (Mail Fraud); 18 U.S.C. § 1028A (Aggravated Identity Theft); 18 U.S.C. § 1956(h) (Conspiracy to Engage in Money Laundering); 18 U.S.C. § 1956(a)(1)(B)(i) (Laundering of Monetary Instruments); 18 U.S.C. § 1957(a) (Engaging in Monetary Transactions in Property Derived from Specified Unlawful Activity); and 18 U.S.C. § 2(b) (Causing an Act to Be Done).

2. A protective order for the discovery is necessary so that the government can produce to the defense materials containing third parties' PII and medical information. The Court finds that disclosure of this information without limitation risks the privacy and security of the information's legitimate owners. The medical information at issue may also be subject to various federal laws protecting the privacy of medical records, including provisions of the Privacy Act, 5 U.S.C. § 552a; provisions of 45 C.F.R. §§ 164.102-164.534; and/or provisions of 42 U.S.C. § 1306. Because the government has an ongoing obligation to protect third parties' PII and medical information, the government cannot produce to defendant an unredacted set of discovery containing this information without this Court entering the Protective Order. Moreover, PII and medical information make up a significant part of the discovery in this case and such information itself, in many instances, has evidentiary value. If the government were to attempt to redact all this information in strict compliance with Federal Rule of Criminal Procedure 49.1, the Central District of California's Local Rules regarding redaction, and the Privacy Policy of the United States Judicial Conference, the defense would receive a set of discovery that would be highly confusing and difficult to understand, and it

1 would be challenging for defense counsel to adequately evaluate the
2 case, provide advice to defendant, or prepare for trial.

3 3. An order is also necessary because the government intends
4 to produce to the defense materials that may contain information
5 within the scope of the Privacy Act, 5 U.S.C. § 552a ("Privacy Act
6 Information"). The Court finds that, to the extent that these
7 materials contain Privacy Act information, disclosure is authorized
8 pursuant to 5 U.S.C. § 552a(b)(11).

9 4. The purpose of this Protective Order is therefore to
10 (a) allow the government to comply with its discovery obligations
11 while protecting this sensitive information from unauthorized
12 dissemination, and (b) provide the defense with sufficient
13 information to adequately represent defendant.

14 5. Accordingly, the discovery that the government will
15 provide to defense counsel in the above-captioned case will be
16 subject to this Protective Order, as follows:

17 a. As used herein, "PII Materials" includes any
18 information that can be used to identify a person, including a name,
19 address, date of birth, Social Security number, driver's license
20 number, telephone number, account number, email address, or personal
21 identification number.

22 b. "Medical Materials" includes any individually
23 identifiable health information that is connected to a patient's
24 name, address, or other identifying number, such as a Social
25 Security number or Medicare/Medi-Cal number.

26 c. "Confidential Information" refers to any document or
27 information containing PII Materials or Medical Materials that the
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1 government produces to the defense pursuant to this Protective Order
2 and any copies thereof.

3 d. "Defense Team" includes (1) defendant's counsel of
4 record ("defense counsel"); (2) other attorneys at defense counsel's
5 law firm who may be consulted regarding case strategy in this case;
6 (3) defense investigators who are assisting defense counsel with
7 this case; (4) retained experts or potential experts; and
8 (5) paralegals, legal assistants, and other support staff to defense
9 counsel who are providing assistance on this case. The Defense Team
10 does not include defendant, defendant's family members, or any other
11 associates of defendant.

12 e. The government is authorized to provide defense
13 counsel with Confidential Information marked with the following
14 legend: "CONFIDENTIAL INFORMATION -- CONTENTS SUBJECT TO PROTECTIVE
15 ORDER." The government may put that legend on the digital medium
16 (such as DVD or hard drive) or simply label a digital folder on the
17 digital medium to cover the content of that digital folder. The
18 government may also redact any PII contained in the production of
19 Confidential Information.

20 f. If defendant objects to a designation that material
21 contains Confidential Information, the parties shall meet and
22 confer. If the parties cannot reach an agreement regarding
23 defendant's objection, defendant may apply to this Court to have the
24 designation removed.

25 g. Defendant and the Defense Team shall use the
26 Confidential Information solely to prepare for any pretrial motions,
27 plea negotiations, trial, and sentencing hearing in this case, as
28 well as any appellate and post-conviction proceedings.

1 h. The Defense Team shall not permit anyone other than
2 the Defense Team to have possession of Confidential Information,
3 including defendant, while outside the presence of the Defense Team.

4 i. At no time, under no circumstance, will any
5 Confidential Information be left in the possession, custody, or
6 control of defendant, regardless of defendant's custody status.

7 j. Defendant may review PII Materials and Medical
8 Materials only in the presence of a member of the Defense Team, who
9 shall ensure that defendant is never left alone with any PII
10 Materials or Medical Materials. At the conclusion of any meeting
11 with defendant at which defendant is permitted to view PII Materials
12 or Medical Materials, defendant must return any PII Materials or
13 Medical Materials to the Defense Team, and the member of the Defense
14 Team present shall take all such materials with him or her.
15 Defendant may not take any PII Materials or Medical Materials out of
16 the room in which defendant is meeting with the Defense Team.

17 k. Defendant may see and review Confidential Information
18 as permitted by this Protective Order, but defendant may not copy,
19 keep, maintain, or otherwise possess any Confidential Information in
20 this case at any time. Defendant also may not write down or
21 memorialize any data or information contained in the Confidential
22 Information.

23 l. The Defense Team may review Confidential Information
24 with a witness or potential witness in this case, including
25 defendant. A member of the Defense Team must be present if PII
26 Materials or Medical Materials are being shown to a witness or
27 potential witness. Before being shown any portion of Confidential
28 Information, however, any witness or potential witness must be

1 informed of, and agree in writing to be bound by, the requirements
2 of the Protective Order. No member of the Defense Team shall permit
3 a witness or potential witness to retain Confidential Information or
4 any notes generated from Confidential Information.

5 m. The Defense Team shall maintain Confidential
6 Information safely and securely, and shall exercise reasonable care
7 in ensuring the confidentiality of those materials by (1) not
8 permitting anyone other than members of the Defense Team, defendant,
9 witnesses, and potential witnesses, as restricted above, to see
10 Confidential Information; (2) not divulging to anyone other than
11 members of the Defense Team, defendant, witnesses, and potential
12 witnesses, the contents of Confidential Information; and (3) not
13 permitting Confidential Information to be outside the Defense Team's
14 offices, homes, vehicles, or personal presence.

15 n. To the extent that defendant, the Defense Team,
16 witnesses, or potential witnesses create notes that contain, in
17 whole or in part, Confidential Information, or to the extent that
18 copies are made for authorized use by members of the Defense Team,
19 such notes, copies, or reproductions become Confidential Information
20 subject to the Protective Order and must be handled in accordance
21 with the terms of the Protective Order.

22 o. The Defense Team shall use Confidential Information
23 only for the litigation of this matter and for no other purpose.
24 Litigation of this matter includes any appeal filed by defendant and
25 any motion filed by defendant pursuant to 28 U.S.C. § 2255. In the
26 event that a party needs to file Confidential Information with the
27 Court or divulge the contents of Confidential Information in court
28 filings, the filing should be made under seal. If the Court rejects

1 the request to file such information under seal, the party seeking
2 to file such information publicly shall provide advance written
3 notice to the other party to afford such party an opportunity to
4 object or otherwise respond to such intention. If the other party
5 does not object to the proposed filing, the party seeking to file
6 such information shall redact any PII Materials or Medical Materials
7 and make all reasonable attempts to limit the divulging of PII
8 Materials or Medical Materials.

9 p. Any Confidential Information inadvertently produced
10 in the course of discovery prior to entry of the Protective Order
11 shall be subject to the terms of this Protective Order. If
12 Confidential Information was inadvertently produced prior to entry
13 of the Protective Order without being marked "CONFIDENTIAL
14 INFORMATION -- CONTENTS SUBJECT TO PROTECTIVE ORDER," the government
15 shall reproduce the material with the correct designation and notify
16 defense counsel of the error. The Defense Team shall take immediate
17 steps to destroy the unmarked material, including any copies.

18 q. Confidential Information shall not be used by any
19 member of the defense team, in any way, in any other matter, absent
20 an order by this Court. All materials designated subject to the
21 Protective Order maintained in the Defense Team's files shall remain
22 subject to the Protective Order unless and until such order is
23 modified by this Court. Upon request by the government, defense
24 counsel shall return all PII Materials or Medical Materials, certify
25 that such materials have been destroyed, or certify that such
26 materials are being kept pursuant to the California Business and
27 Professions Code and the California Rules of Professional Conduct.
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r. In the event that there is a substitution of counsel prior to when such documents must be returned, new defense counsel must be informed of, and agree in writing to be bound by, the requirements of the Protective Order before defense counsel transfers any Confidential Information to the new defense counsel. New defense counsel's written agreement to be bound by the terms of the Protective Order must be returned to the Assistant U.S. Attorney assigned to the case. New defense counsel then will become the Defense Team's custodian of materials designated subject to the Protective Order and shall then become responsible, upon the conclusion of appellate and post-conviction proceedings, for returning to the government, certifying the destruction of, or retaining pursuant to the California Business and Professions Code and the California Rules of Professional Conduct all PII Materials or Medical Materials.

s. Defense counsel shall advise defendant and all members of the Defense Team of their obligations under the Protective Order and ensure their agreement to follow the Protective Order, prior to providing defendant and members of the Defense Team with access to any materials subject to the Protective Order.

IT IS SO ORDERED.

February 20, 2023

DATE


PERCY ANDERSON
UNITED STATES DISTRICT JUDGE

Presented by:

/s/

ANDREW M. ROACH

Assistant United States Attorney